

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :
THE HONOURABLE MR. JUSTICE C.N. RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 26TH SEPTEMBER 2006 / 4TH ASWINA 1928

ST.Rev..No. 87 of 2004()

TA.334/1998 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
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REVISION PETITIONER/APPELLANT/ASSESSEE.

M/S.ASLAM PLYWOOD INDUSTRIES,
PAYANGADI, KANNUR DISTRICT,
REP. BY ITS MANAGING PARTNER.
SRI.C.YUSUF HAJI.

BY ADV. SRI.C.KOCHUNNY NAIR
SRI.DALE P.KURIEN

RESPONDENTS: RESPONDENT/REVENUE.

STATE OF KERALA, REP. BY ITS CHIEF
SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. GEORGEKUTTY MATHEW.

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD
ON 26/09/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

S.T.REVCASE No. 87 OF 2004

Dated this the 26th day of September, 2006.

JUDGMENT

Ramachandran Nair, J.

Claim is one of exemption of CST payable by the petitioner for the assessment year 1992-93. It is seen that all the authorities including the Tribunal declined relief because the petitioner did not produce exemption certificate from General Manager, District Industries Centre. However, a certificate dated 15.3.2001 is produced in this court without explaining as to why it was not produced before the Tribunal, which heard the appeal on 24.7.2003. The Officer has stated that the relevant notification does not provide for CST exemption. However, it is seen that the General Manager has granted exemption to the petitioner vide proceedings dated 15.3.2001 from 1.4.1990 to 21.1.1993. Since turnover assessed is at 4%, it is obvious that petitioner has produced C Forms and in that event petitioner would have collected tax. If tax is collected it has to be forfeited even though exemption certificate is obtained by the petitioner. In any case since the Assessing Officer did not have the opportunity to see certificate of

exemption produced by the petitioner in this court, we give one more opportunity to the petitioner to produce the original certificate of exemption before the Assessing Officer for verifying whether tax is collected by the petitioner or certificate issued is consistent with the notification issued. If notification does not grant exemption, then it is for the Officer to get clarification from the General Manager, District Industries Centre, who issued the same. The Tribunal's order is set aside with the direction to the Officer to pass fresh orders after giving opportunity to the petitioner, within a period of three months from the date of production of a copy of this judgment.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

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K.S.RADHAKRISHNAN & K.M.JOSEPH, JJ.

W.A. No. OF 200

JUDGMENT

Dated this the day of February, 200.